



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET, Rm. 3-197
NEW YORK, NY 10007

ZACHARY W. CARTER
Corporation Counsel

J. CAROLINA CHAVEZ
Senior Counsel
Phone: (212) 356-2384
Fax: (212) 356-3559
jchavez@law.nyc.gov

February 11, 2019

BY ECF

Honorable James Orenstein
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Damian Rivera v. City of New York, et al., 18-CV-2597 (ENV) (JO)

Your Honor:

I am a Senior Counsel in the Office of the Corporation Counsel for the City of New York and represent the City of New York (the "City") in the above referenced matter. Pursuant to the Court's Order (ECF Nos. 14), I submit this joint Status Report on behalf of the City and plaintiff Damian Rivera. Further, the parties respectfully request a one-month adjournment of the conference currently scheduled for February 12, 2019 at 10:00 AM. This is the parties' second joint application for an adjournment.

By way of background, plaintiff brings this action against the City in connection with injuries he allegedly suffered on July 10, 2017, while incarcerated at the George Motchan Detention Center ("GMDC"). On that day, plaintiff was allegedly assaulted by another inmate while two correction officers witnessed the incident and did nothing to stop it. Plaintiff alleges that as a result of that assault, he suffered several physical injuries, including permanent injury to his left eye. Accordingly, plaintiff claims that by failing to intervene and protect him, the correction officers present during his assault violated his civil rights, pursuant to both 42 U.S.C. Section 1983 and State Law. Further, plaintiff claims that the City is liable for his injuries pursuant to *Monell v. City of New York*, 436 U.S. 658 (1978).

Since the parties' January 18, 2019 Status Report (ECF No. 18), defendant City has received plaintiff's Responses to their Document Requests and Interrogatories. Further, on February 4th, defendant City produced to plaintiff the medical records maintained by New York City Health and Hospitals. Said records include plaintiff's diagnosis and treatment on the date of the alleged incident and while in the custody of GMDC, which is a central issue to the parties'

settlement negotiations. Plaintiff is in the process of getting an expert assessment of the eye injuries he allegedly sustained on the date underlying this action. He anticipates completing that assessment within the next 14 days, and conveying a demand shortly thereafter.

At this time, the parties request a one-month adjournment of the status conference to a date in mid-March, following plaintiff's medical assessment and the exchange of preliminary settlement positions. The parties hope to resolve this matter before proceeding to depositions, and should know if that is possible shortly after plaintiff conveys his demand. Accordingly, by mid-March, the parties will be in a better position to inform the Court of their settlement negotiations, and seek the Court's assistance with settlement, if needed.

For these reasons, the parties request a one-month adjournment of the status conference, and thank the Court for its consideration herein.

Respectfully submitted,

/s/

J. Carolina Chavez
Senior Counsel

cc: All Parties (by ECF)